Overview

- Reasonable Accommodations
- Disability Waivers
- Oath Waivers

Reasonable Accommodations

- Modifications of USCIS policies or procedures for disabled applicants
- Do not remove or waive requirements
- Available for all disabled applicants
- Required by § 504 of the Rehabilitation Act of 1973

References

- Part C (on accommodations)
- Part E, Chapter 3 (on disability waivers)
- Part J, Chapter 3 (on oath waivers)

£ 504

“No otherwise qualified individual with a disability… shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity… conducted by any Executive agency.”
Examples of Reasonable Accommodations

- Sign language interpreter
- Written test
- Oral test
- Wheelchair accessible interview/fingerprint site
- Asking the examiner to speak loudly or slowly or repeat the questions
- Additional time to take the test
- Bringing a family member or friend to the interview for moral support
- Non-verbal forms of communication
- Home interview
- Expedited oath ceremony

Case Example

Abebe, age 52, is legally blind due to advanced glaucoma. As a result, he is unable to read or write. However, he is able to speak English fairly well, and has been studying the U.S. history/civics test questions with the help of a friend.

Procedures for Requesting Accommodations

- Request can be made at any time in naturalization process
- Use Part 2, Number 10 on N-400 (p. 2)
- If requested after filing N-400, write letter explaining:
  - What disability applicant has
  - How it affects applicant
  - What kind of accommodations are needed
- Bring letter to the interview or notify USCIS in advance if needed
- Sample request on CLINIC website, https://cliniclegal.org/clinic_toolkit/citizenship
- Applicant may also call NCSC or contact USCIS field office with request
- No documentation required

Denial of Accommodations

- Rare
- No official appeals process
- File a § 504 Civil Rights Complaint against USCIS, in addition to regular appeals process for denied N-400
- File complaint with DHS Office for Civil Rights and Civil Liberties send a copy to Director of local USCIS office & Director of USCIS HQ
- Mail it certified with a return receipt
- Can also send via e-mail or fax
- See http://www.dhs.gov/file-civil-rights-complaint#1 for DHS complaint form (translations available)

FAQs

- Do blind and deaf applicants need to apply for a waiver of the testing requirements?
- Is a doctor’s certification needed for accommodations?
- Will an accommodations request delay my application?
- What if my request is denied?

Disability Waiver

- An exemption from the English and/or U.S. history/civics test for applicants with certain disabilities
- INA § 312(b)(1)
Disability Waiver
Eligibility Requirements

- Must have medically determinable physical or developmental disability or mental impairment
- One or combination
- Permanent
- Disability must be so severe that the person is unable to learn English, history, or civics
- Must be unable to pass the tests with accommodations
- Disability cannot be the result of illegal drug use
- Must be certified by a licensed medical doctor (M.D.), clinical psychologist (Ph.D.) or doctor of osteopathy (D.O.) on Form N-648

Ineligible Conditions

- Old age
- Illiteracy / lack of education

Case Example

Rima, age 72, has been diagnosed with vascular dementia due to a series of strokes she suffered about 10 years ago, before she came to the U.S. A CT scan shows brain damage. Her symptoms include memory impairment, confusion, short attention span, weakness on one side of her body, and difficulties with daily activities such as cooking and caring for herself. She lives with her daughter, who takes care of her.

Quiz 1: True or False?

1. Reasonable accommodations do not remove or waive the requirements for naturalization.
2. All disabled applicants are eligible for a disability waiver.
3. A request for accommodations can be made at any time in the naturalization process.
4. A blind or deaf applicant might be eligible for a disability waiver.
5. The N-648 may be certified by a licensed nurse practitioner.

Form N-648, Disability Waiver Application

- All parts of form to be completed by doctor, except applicant attestation & interpreter certification
- Must be legible, ask doctors to use electronic form on USCIS website or use black ink
- Doctor should avoid medical jargon
- Must provide DSM-IV code for any mental impairments

Form N-648, cont’d

- Not advisable to mention applicant’s illiteracy or lack of education
- Make sure N-648 consistent with any previous N-648s submitted and no conflicting information
- Legal representative not allowed to complete N-648 for the doctor’s signature, but medical staff can
- Part III, Question #10 is the key – must have detailed response on the nexus
- See N-648 instructions for sample response
Question 10: The Connection

“Clearly describe how the applicant’s disability and/or impairment(s) affect his or her ability to demonstrate knowledge and understanding of English and/or civics.”

The Disability Waiver Process

• N-648 should be filed with the N-400 (ideally), but may be filed at the interview
• N-648 must be filed within 6 months of doctor’s signature, but does not expire after filing
• No additional fee (except for doctor’s fee)
• Always keep a copy
• Two chances to submit complete N-648
• Recommend legal representation at interview

Resources

On USCIS forms page with N-648:
• USCIS information for medical professionals completing N-648
• USCIS training for external stakeholders on Form N-648
• USCIS 5-minute instructional video

Practice Tips

• Work with the doctor to submit the best N-648 possible with the N-400
• If N-648 is not accepted, make sure you understand why (in writing on N-14)
• If you disagree with examiner’s decision, ask to speak with a supervisor; record the name(s) of any supervisor(s) you talk to

FAQs

• Does the N-648 have to be completed by a specialist, or can the applicant’s primary care doctor complete it?
• Should I submit medical records together with the N-648?
• My client’s doctor is not cooperating. What should I do?
• Should my client bring an interpreter to the naturalization interview?

More FAQs

• I think my client has a learning disability. Can she qualify for a disability waiver?
• My client’s N-648 was not approved at the first interview, and she was asked to get another one. What should I do?
• Is there a limit on the number of N-648s a person can submit?
Oath Waivers

- Available under legislation enacted in 2000
- INA § 337(a)
- For applicants who are so severely disabled that they cannot assent to the oath of allegiance, even in simplified terms
- Physical or developmental disability or mental impairment
- Does not waive other requirements for naturalization

Case Example

Jose, age 25, came to the U.S. with his parents 10 years ago. He was born with severe developmental disabilities, and requires 24-hour care. He has very limited speech, movement, and mental capacity. His parents want him to become a U.S. citizen.

The Oath Requirement

Applicant must understand that he/she is:
- Becoming a U.S. citizen
- Giving up allegiance to native country
- Personally and voluntarily agreeing to a change in status

Note: May be conveyed in simplified terms.

Procedure

- Submit a written request with the N-400, ideally
- However, can request at any time in the naturalization process
- Include a detailed, written evaluation from the applicant’s doctor or “licensed medical professional”
- A legal guardian, surrogate, or designated representative must testify on the applicant’s behalf

Medical Evaluation

- Explain applicant’s condition and disability in layman’s terms
- Describe how and why the disability makes the person unable to understand or communicate an understanding of the oath
- Explain likelihood of applicant being able to take oath in near future
- Include medical professional’s signature and state license number

Individuals Eligible to Act on Behalf of Applicant

- A legal guardian or surrogate designated by a court and authorized to exercise legal authority over applicant’s affairs
- In the absence of the above (and by order of priority), a U.S. citizen spouse, parent, adult son or daughter, or adult brother or sister who is primary custodial caregiver
- Status and relationship with the applicant must be documented
Documentation
• Proof of legal guardianship; OR
• Proof of familial relationship (birth certificate, marriage certificate, adoption decree, etc.);
• Proof of primary custodial care and responsibility (income tax returns, SSA documents, affidavits from other relatives, etc.);
AND
• Proof of U.S. citizenship

FAQs
• My client has several doctors. Which doctor should provide the evaluation?
• What if my client has no legal guardian, and none of his immediate family members are U.S. citizens?
• Does the doctor need to include documentation of the disability?
• What if the oath waiver request is denied?

Quiz 2: True or False?
1. The N-648 must be filed within 6 months of the doctor’s signature.
2. The N-648 must be accompanied by the applicant’s medical records.
3. The oath waiver is available for applicants who are so severely disabled that they cannot understand or assent to the oath of allegiance.
4. To request an oath waiver, you must complete an application form.
5. Only a legal guardian or surrogate may act on behalf of an oath waiver applicant.

Summary
• All disabled applicants are eligible to request reasonable accommodations
• Some are eligible for a disability waiver
• A very small number are eligible for an oath waiver
• May need to use these alone or in combination
• Important to evaluate each applicant on a case-by-case basis

Additional Resources
• CLINIC guide, Strategies for Naturalizing the Most Vulnerable Applicants, https://cliniclegal.org/resources/publications
• CLINIC handbook, Citizenship for Elders: Issues and Options in Test Preparation, https://cliniclegal.org/resources/publications
• CLINIC’s Citizenship Toolkit, https://cliniclegal.org/clinic_toolkit/citizenship

Answers to Quiz 1
1. Reasonable accommodations do not remove or waive the requirements for naturalization. True.
2. All disabled applicants are eligible for a disability waiver. False. The disability waiver is for certain applicants who are so severely disabled that they are unable to learn English, history, or civics.
3. A request for accommodations can be made at any time in the naturalization process. True.
4. A blind or deaf applicant might be eligible for a disability waiver. True.
5. The N-648 may be certified by a licensed nurse practitioner. False. The N-648 must be certified by a licensed medical doctor, clinical psychologist, or doctor of osteopathy.
Answers to Quiz 2

1. The N-648 must be filed within 6 months of the doctor’s signature. True.
2. The N-648 must be accompanied by the applicant’s medical records. False. Medical records may be submitted, but are not required.
3. The oath waiver is available for applicants who are so severely disabled that they cannot understand or assent to the oath of allegiance. True.
4. To request an oath waiver, you must complete an application form. False. There is no application form for the oath waiver.
5. Only a legal guardian or surrogate may act on behalf of an oath waiver applicant. False. In the absence of a legal guardian or surrogate, a U.S. citizen spouse, parent, adult son or daughter, or adult brother or sister who is the applicant’s primary caregiver may act on behalf of the applicant.